

State of South Dakota

EIGHTIETH LEGISLATIVE ASSEMBLY, 2005

400L0250

HOUSE BILL NO. 1017

Introduced by: The Committee on Retirement Laws at the request of the South Dakota Retirement System

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the types of service
2 necessary for certain South Dakota Retirement System benefits.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That subdivision (47) of § 3-12-47 be amended to read as follows:

5 (47) "Normal retirement," the termination of employment and application for benefits by
6 a member with three or more years of contributory service or noncontributory service
7 as delineated in subsections (b), (e), (g) and (h) of § 3-12-47(24) on or after the
8 member's normal retirement age;

9 Section 2. That subdivision (73) of § 3-12-47 be amended to read as follows:

10 (73) "Vested," the right to an annuity payable at normal retirement age from the system
11 after three years of contributory service or noncontributory service as delineated in
12 subsections (b), (e), (g) and (h) of § 3-12-47(24), even if the member leaves the
13 employment of a participating unit, provided that the member does not withdraw
14 accumulated contributions. A member who leaves the employment of a participating
15 unit is not entitled to benefits under §§ 3-12-95, 3-12-98, 3-12-99, 3-12-104, and 3-



12-105.

Section 3. That § 3-12-82 be amended to read as follows:

3-12-82. If less than three years of ~~credited~~ contributory service or noncontributory service as delineated in subsections (b), (e), (g) and (h) of § 3-12-47(24) is ~~performed~~ acquired after a retired member's reentry into covered employment, the member upon subsequent retirement shall receive a refund of the member's contributions and seventy-five percent of the employer's contributions, plus interest on both at the effective rate, made during the period after reentry.

If three years or more of ~~credited~~ contributory service or noncontributory service as delineated in subsections (b), (e), (g) and (h) of § 3-12-47(24) are ~~performed~~ acquired after a retired member's reentry into covered employment, the member upon subsequent retirement shall receive an additional allowance based upon the member's credited service and final compensation earned during such reentry. Only the member's credited service from the subsequent employment shall be taken into account in calculating a reduction pursuant to § 3-12-106, if any, in the member's additional allowance. In addition, the annual increase applied to the original allowance pursuant to § 3-12-88 shall be eliminated for such period of reemployment, unless the member retired as a Class B member other ~~that~~ than a justice, judge, or magistrate judge and subsequently has reentered covered employment as a Class A member.

The provisions of this section apply to any member who retired without any reduction in benefits pursuant to § 3-12-106 and who reenters covered employment on or after July 1, 2004.

Section 4. That § 3-12-95 be amended to read as follows:

3-12-95. On the death of a contributing member after July 1, 1974, and prior to the earlier of the member attaining normal retirement age or the member's retirement, who has one or more years of ~~credited~~ contributory service; or if there has been a break in the member's employment of more than one year, one-half year of ~~credited~~ contributory service having been performed

1 after the end of the last such break; or if the member was receiving a disability allowance which
2 commenced after July 1, 1974, the following benefits shall be paid:

3 (1) A surviving spouse having the care of children shall receive an annual amount,
4 payable in monthly installments, equal to forty percent of the member's final average
5 compensation, plus ten percent of such final average compensation for each child to
6 a maximum of six such children;

7 (2) The conservator of each child, on whose account there is no benefit payable under
8 subdivision (1), shall receive on behalf of each child, to a maximum of five such
9 children, an annual amount, payable in monthly installments, equal to twenty percent
10 of the member's final average compensation;

11 (3) If the sum of benefits payable under subdivisions (1) and (2) exceeds one hundred
12 percent of the member's final average compensation, the benefits payable under both
13 subdivisions (1) and (2) shall be proportionally reduced so that the total of the
14 benefits is equal to one hundred percent of the member's final average compensation;

15 (4) If there are no benefits being paid under subdivision (1) and the member's
16 accumulated contributions have not been withdrawn pursuant to § 3-12-97, the
17 spouse who has reached age sixty-five shall receive a monthly payment equal to sixty
18 percent of the amount which would have been payable to the deceased member at
19 normal retirement age based on the member's credited and projected service and
20 projected compensation. The benefit payable under this subdivision shall be
21 increased by application of the improvement factor for time which elapses between
22 the date the member would have reached normal retirement age and the date benefits
23 commence to the spouse.

24 Family benefits begin to accrue on the first day of the month following the death of the

1 member.

2 Section 5. That § 3-12-98 be amended to read as follows:

3 3-12-98. A contributing member who becomes disabled and who has ~~rendered~~ acquired at
4 least three years of contributory service or noncontributory service as delineated in subsections
5 (b), (e), (g) and (h) of § 3-12-47(24) since the member's most recent entry into active status and
6 prior to becoming disabled or was disabled by accidental means while performing usual duties
7 for an employer, is eligible for a disability allowance if the disability is expected to be of long,
8 continued, and indefinite duration of at least one year. In order to be eligible for a disability
9 allowance, a member shall be disabled on the date the contributory service ends. Any member
10 who fails to file with the administrator an application for disability benefits within three years
11 of the date on which the member's contributory service ends, forfeits all rights to disability
12 benefits. For purposes of this section, a transfer within a participating unit, or a change in
13 employment from one participating unit to another participating unit if there is no break in
14 contributory service, does not constitute a new entry into active status.